

waiver of the CEDS requirements of §303.7 of this chapter;

(2) Involves a Project undertaken by an Indian Tribe;

(3) Is rural and severely distressed;

(4) Is undergoing a transition in its economic base as a result of changing trade patterns (e.g., the Region is certified as eligible by the North American Development Bank Program or the Community Adjustment and Investment Program);

(5) Exhibits a substantial reliance on a natural resource for its economic well-being;

(6) Has been designated as a Federally-Declared Disaster area; or

(7) Has a Special Need.

(b) For purposes of this part, excessive unemployment exists if the twenty-four (24) month unemployment rate is at least 225% of the national average or the per capita income is not more than 50% of the national average. A Region demonstrates excessive underemployment if the employment of a substantial percentage of workers in the Region is less than full-time or at less skilled tasks than their training or abilities would otherwise permit. Eligible Recipients seeking a Special Impact Area designation under this criterion must present appropriate and compelling economic and demographic data.

(c) Eligible Recipients may demonstrate the provision of useful employment opportunities by quantifying and evidencing the Project's prospective:

(1) Creation of jobs;

(2) Commitment of financial investment by private entities; or

(3) Application of innovative technology that will lead to the creation of jobs or the commitment of financial investment by private entities.

## PARTS 311–312 [RESERVED]

### PART 313—COMMUNITY TRADE ADJUSTMENT ASSISTANCE

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SOURCE: 74 FR 41595, Aug. 18, 2009, unless otherwise noted.

#### Subpart A—General Provisions

##### §313.1 Purpose and scope.

The regulations in this part set forth the responsibilities of the Secretary of Commerce under chapter 4 of title II of the Trade Act concerning Community Trade Adjustment Assistance ('Community TAA'). The Community TAA Program is designed to assist Communities impacted by trade with economic adjustment through the coordination of Federal, State, and local resources, the creation of community-based development strategies, and the development and provision of programs that meet the training needs of workers. The statutory authority and responsibilities of the Secretary of Commerce relating to Community TAA are delegated to EDA. EDA certifies Communities as eligible to apply for assistance under the Community TAA Program, provides technical assistance to Impacted Communities, and provides implementation assistance to Impacted Communities in preparing and carrying out Strategic Plans.

##### §313.2 Definitions.

In addition to the defined terms set forth in §300.3 of this chapter, the terms used in this part shall have the following meanings:

*Agricultural Commodity Producer* has the same meaning given to that term

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in title II, chapter 6, section 291 of the Trade Act.

*Community Adjustment Assistance* means technical and implementation assistance provided to an Impacted Community under chapter 4 of title II of the Trade Act.

*Community* means a city, county, or other political subdivision of a State or a consortium of political subdivisions of a State.

*Cognizable Certification* means a certification:

(1) By the Secretary of Labor that a group of workers in the Community is eligible to apply for assistance under chapter 2, section 223 of the Trade Act;

(2) By the Secretary of Commerce that a Certified Firm (as defined at § 315.2 of this chapter) located in the Community is eligible to apply for Adjustment Assistance in accordance with chapter 3, sections 251–253 of the Trade Act; or

(3) By the Secretary of Agriculture that a group of Agricultural Commodity Producers in the Community is eligible to apply for assistance under chapter 6, section 293 of the Trade Act.

*Impacted Community* means a Community that is affected by trade to such a degree that the Secretary has made an affirmative determination that it is eligible to apply for assistance under this part.

*Strategic Plan* means an Impacted Community's plan for improving its economic situation developed in accordance with § 313.6.

### Subpart B—Participation in the Community Trade Adjustment Assistance Program

#### § 313.3 Overview of Community Trade Adjustment Assistance.

The Community TAA Program is designed to assist Communities impacted by trade to adjust to that impact. The Community TAA Program will be administered in accordance with the following process:

(a) *Determination of eligibility.* First, EDA must make an affirmative determination that the Community is impacted by trade in accordance with § 313.4.

(b) *Provision of technical assistance.* After an affirmative determination is

made, EDA will provide the Impacted Community with technical assistance in accordance with § 313.5.

(c) *Strategic Plan development.* An Impacted Community that intends to apply for an implementation grant in accordance with § 313.7 must develop, in accordance with § 313.6, an EDA-approved Strategic Plan.

(d) *Implementation grant.* In accordance with § 313.7, EDA may award an implementation grant to assist an Impacted Community in carrying out a project or program included in a Strategic Plan.

#### § 313.4 Affirmative determinations.

(a) *General.* Subject to the availability of funds, a Community may apply for an affirmative determination if:

(1) On or after August 1, 2009, one or more Cognizable Certifications are made with respect to the Community; and

(2) The Community submits the petition no later than 180 days after the date of the most recent Cognizable Certification.

(b) *Grandfathered Communities.* If one or more Cognizable Certifications were made with respect to a Community on or after January 1, 2007, and before August 1, 2009, the Community may submit a petition to EDA for an affirmative determination under this section not later than February 1, 2010.

(c) *Affirmative determination petition requirements.* (1) The Community must submit a complete petition to the applicable regional office (or regional offices in the event the Community crosses multiple geographic boundaries) serving the geographic area in which the Community is located. A complete petition for an affirmative determination shall contain the following:

(i) The 'Application for Federal Assistance' (Form SF-424) that contains such information to allow EDA to determine that the petitioning Community is significantly affected by the threat to, or the loss of, jobs associated with one or more Cognizable Certifications;

(ii) The applicable Cognizable Certification(s) upon which the Community bases its petition; and

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(iii) Such other information as EDA considers material.

(2) The petition for affirmative determination must contain information about the impact(s) on the Community from the actual or threatened loss of jobs attributable to trade that led to the applicable Cognizable Certification(s) made by the Secretaries of Labor, Commerce or Agriculture, in order for EDA to determine that the Community is significantly affected. EDA shall measure such impact(s) using the petitioning Community's most recent Civilian Labor Force statistics as reported by the Bureau of Labor Statistics, U.S. Department of Labor, effective at the time of petition for affirmative determination. EDA will obtain the applicable Cognizable Certification from publicly available resources. However, a petitioning Community may also provide copies of the applicable Cognizable Certification to EDA.

(d) *Notification to Community.* Upon making an affirmative determination, EDA shall notify promptly the Community and the Governor of the State in which the Community is located of the means for obtaining assistance under this part and other appropriate economic assistance that may be available to the Community. Such notification will identify the appropriate EDA regional office that will provide technical assistance under § 313.5.

[74 FR 41595, Aug. 18, 2009, as amended at 75 FR 4265, Jan. 27, 2010]

#### § 313.5 Technical assistance.

(a) *General.* Once EDA has made an affirmative determination that a Community is an Impacted Community and subject to the availability of funds, EDA shall provide comprehensive technical assistance to:

(1) Diversify and strengthen the economy in the Impacted Community;

(2) Identify significant impediments to economic development that result from the impact of trade on the Impacted Community; and

(3) Develop or update a Strategic Plan in accordance with § 313.6 to address economic adjustment and workforce dislocation in the Impacted Community, including unemployment

among agricultural commodity producers.

(b) *Coordination of Federal response.* EDA will coordinate the Federal response to an Impacted Community by:

(1) Identifying Federal, State, and local resources that are available to assist the Impacted Community in responding to economic distress; and

(2) Assisting the Impacted Community in accessing available Federal assistance and ensuring that such assistance is provided in a targeted, integrated manner.

#### § 313.6 Strategic Plans.

(a) *General.* An Impacted Community that intends to apply for a grant for implementation assistance under § 313.7 shall develop and submit a Strategic Plan to EDA for evaluation and approval. EDA shall evaluate the Strategic Plan based on the technical requirements set forth in paragraph (c) of this section.

(b) *Involvement of private and public entities.* To the extent practicable, an Impacted Community shall consult with the following entities in developing a Strategic Plan:

(1) Federal, local, county, or State government agencies serving the Impacted Community;

(2) Firms, as defined in § 315.2 of this chapter, including small- and medium-sized Firms, within the Impacted Community;

(3) Local workforce investment boards established under section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2832);

(4) Labor organizations, including State labor federations and labor-management initiatives, representing workers in the Impacted Community; and

(5) Educational institutions, local educational agencies, or other training providers serving the Impacted Community.

(c) *Technical requirements.* EDA shall evaluate the Strategic Plan based on the following minimum requirements:

(1) An analysis of the capacity of the Impacted Community to achieve economic adjustment to the impact(s) of trade;

(2) An analysis of the economic development challenges and opportunities

facing the Impacted Community as well as the strengths, weaknesses, opportunities, and threats facing the Impacted Community;

(3) An assessment of the commitment of the Impacted Community to the Strategic Plan over the long term and the participation and input of members of the Community affected by economic dislocation, including how the Strategic Plan will be integrated effectively with one or more applicable Comprehensive Economic Development Strategies ('CEDS') that have been developed in connection with EDA's economic development assistance programs as set out at §303.7 of this chapter;

(4) A description of the role and the participation of the entities described in paragraph (b) of this section in developing the Strategic Plan;

(5) A description of the projects to be undertaken by the Impacted Community under its Strategic Plan and how such projects will facilitate the Impacted Community's economic adjustment;

(6) A description of the educational and training programs available to workers in the Impacted Community and the future employment needs of the Community;

(7) An assessment of the cost of implementing the Strategic Plan, including the timing of funding required by the Impacted Community to implement the Strategic Plan and the method of financing to be used to implement the Strategic Plan; and

(8) A strategy for continuing the economic adjustment of the Impacted Community after the completion of the projects described in paragraph (c)(5) of this section.

(d) *Cost sharing limitation.* Assistance awarded to an Impacted Community to develop a Strategic Plan under this section shall not exceed 75 percent of the cost of developing the Strategic Plan. In order to provide funding to as many merit-worthy Impacted Communities as feasible, EDA may base the amount of the Community's required share on the relative distress caused by the actual or threatened decline in the most recent Civilian Labor Force statistics effective on the date EDA re-

ceives an application to develop a Strategic Plan.

#### **§313.7 Implementation grants for Impacted Communities.**

(a) *General.* EDA may provide assistance in the form of a grant under this section to an Impacted Community to help the Community carry out a project or program that is included in a Strategic Plan developed in accordance with §313.6. Such assistance may include:

(1) Infrastructure improvements, such as site acquisition, site preparation, construction, rehabilitation and equipping of facilities;

(2) Market or industry research and analysis;

(3) Technical assistance, including organizational development such as business networking, restructuring or improving the delivery of business services, or feasibility studies;

(4) Public services;

(5) Training; and

(6) Other activities justified by the Strategic Plan that satisfy applicable statutory and regulatory requirements.

(b) *Application evaluation criteria.* (1) An Impacted Community that seeks to receive an implementation grant under this section shall submit a completed 'Application for Federal Assistance' (Form ED-900 or any successor form) to the applicable regional office (or regional offices in the event the Community crosses multiple geographic boundaries) serving the geographic area in which the Community is located. A complete application also shall include:

(i) The EDA-approved Strategic Plan that meets the requirements of §313.6; and

(ii) A description of the project or program included in the Strategic Plan with respect to which the Impacted Community seeks assistance.

(2) EDA will evaluate all applications for the feasibility of the budget presented and conformance with statutory and regulatory requirements. EDA also will consider the degree to which an implementation grant in the Impacted Community will satisfy the evaluation criteria set forth in the applicable FFO announcement.

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(c) *Coordination among grant programs.* If an entity in an Impacted Community seeks or plans to seek a Community College and Career Training Grant under section 278 of the Trade Act or a Sector Partnership Grant under section 279A of the Trade Act while the Impacted Community seeks assistance under this section, the Impacted Community shall include in the application for assistance a description of how the Impacted Community will integrate any projects or programs carried out using assistance provided under this section with any projects or programs that may be implemented with other Federal assistance.

(d) *Cost sharing requirement.* (1) If an Impacted Community is awarded an implementation grant under this section, the following requirements shall apply:

(i) *Federal share.* The Federal share of a project or program for which a grant is awarded may not exceed 95 percent of the cost of implementing the project or program; and

(ii) *Community's share.* The Impacted Community must contribute at least five percent of the amount of the implementation grant towards the cost of implementing the project or program for which the grant is awarded.

(2) In order to provide funding to as many merit-worthy Impacted Communities as feasible, EDA may base the amount of the Community's required share on the relative distress caused by the actual or threatened decline in the most recent Civilian Labor Force statistics effective on the date EDA receives an application for an implementation grant.

(e) *Limitation.* An Impacted Community may not be awarded more than \$5,000,000 in implementation grant assistance under this section.

### § 313.8 Competitive process.

(a) Applications for assistance to develop a Strategic Plan or for an implementation grant shall be reviewed by EDA in accord with a competitive process as set forth in the applicable FFO, to ensure that EDA awards funds to the most merit-worthy projects.

(b) *Priority for grants to small- and medium-sized Communities.* EDA shall give priority to an application submitted

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under this part by an Impacted Community that is a small- or medium-sized Community.

(c) *Supplement, not supplant.* The Community TAA Program and any funds appropriated to implement its provisions shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide economic development assistance for Communities.

## Subpart C—Administrative Provisions

### § 313.9 Records.

Communities that receive assistance under this part are subject to the records requirements set out in § 302.14 of this chapter.

### § 313.10 Conflicts of interest.

Communities that receive assistance under this part are subject to the conflicts of interest provisions as set out in § 302.17 of this chapter.

### § 313.11 Other requirements.

Communities that receive assistance under this part are subject to the general terms and conditions for Investment Assistance set out in part 302 of this chapter relating to requirements involving the environment (§ 302.1); post-disaster assistance (§ 302.2); public information (§ 302.4); relocation assistance and land acquisition (§ 302.5); Federal policies and procedures (§ 302.6); amendments and changes to awards (§ 302.7); pre-approval costs (§ 302.8); intergovernmental project reviews (§ 302.9); attorneys' and consultants' fees or the employment of expeditors (§ 302.10); EDA's economic development information clearinghouse (§ 302.11); project administration, operation, and maintenance (§ 302.12); post-approval requirements (§ 302.18); indemnification (§ 302.19); and civil rights (§ 302.20). In addition, any Property (defined at § 314.1) acquired in connection with Investment Assistance is subject to the property management regulations set out in part 314 of this chapter.